

REMARKS

With the entry of this Response, Claims 1-3, 9, 14-27, and 30 are pending. Claims 16-24 and 26 have been previously withdrawn. With the entry of this Response, Applicants have canceled Claims 4-6, 8, 10-13, and 28-29 and have amended Claims 1, 9, 14, 25, and 27. Claim 1 is the only independent claim. Applicants do not believe that these amendments add any new matter. Support for these claim amendments is found at least in the formerly pending claims and at page 9, line 36 through page 10, line 24 of the originally filed application. Applicants have added Claim 30. Support for new Claim 30 is found in at least at page 10, lines 26-29 of the originally filed application.

35 U.S.C. § 112, 2ND PARAGRAPH, REJECTIONS

The Office Action rejected Claims 1-6, 10-13, and 15 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Office Action stated that “the term ‘majority’ in claim 1 is a relative term which renders the claim indefinite.” (Office Action, p. 3). The Office Action further stated that “the phrase ‘of the native protein of the signal peptide’ is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.” (Office Action, p. 3). Applicants respectfully traverse this rejection to the extent that the rejection applies to the amended claims.

Applicants have canceled Claims 4-6 and 10-13 in this Response. Solely to further the prosecution of these claims, Applicants have amended independent Claim 1 to remove the term “majority” and to remove the phrase “of the native protein of the signal peptide.”

Applicants respectfully submit that the amendments to Claim 1 overcome this rejection, and request that the Examiner withdraw the rejection of independent Claim 1 and remaining dependent Claims 2, 3, and 15.

35 U.S.C. § 112, 1ST PARAGRAPH, REJECTIONS

The Office Action rejected Claims 1-6, 8-15, and 27-29 under 35 U.S.C. § 112, 1st paragraph, as failing to comply with the written description requirement. Specifically, the Office Action stated that these claims were rejected because “the disclosure does not disclose a structure to function correlation for the genus of signal peptides from bulk-secreted proteins or non-mammalian bulk secreted proteins or any derivatives thereof having at least 40% sequence homology.” (Office Action, p. 4). Applicants respectfully traverse this rejection to the extent that the rejection applies to the amended claims.

Applicants have canceled Claims 4-6, 8, 10-13, 28, and 29 in this Response. Applicants have amended independent Claim 1. Support for the amendments to Claim 1 is found at least in the formerly pending claims and at page 9, line 36 through page 10, line 24 of the originally filed application. Applicants respectfully submit that the amendments to Claim 1 overcome this rejection, and request that the Examiner withdraw the rejection of independent Claim 1 and remaining dependent Claims 2-3, 9, 14, 15, and 27.

CONCLUSION

The foregoing is a complete response to the final Office Action mailed August 17, 2009. Applicants respectfully submit that at least Claims 1-3, 9, 14-15, 25, 27, and 30 are patentable. Early and favorable consideration is solicited.

Applicants file this Amendment and Response solely to facilitate prosecution. As such, Applicants reserve the right to pursue claims of broader or similar scope as originally filed in a continuation application or other application after allowance of the present application. Applicants do not concede that the current or past rejections are correct and reserve the right to challenge such rejections later in prosecution or on appeal. Accordingly, any amendment, argument, or claim cancellation is not to be construed as abandonment or disclaimer of subject matter. Because certain of the current amendments may include broadening amendments, Applicants respectfully request the Examiner to revisit any previously reviewed references cited in this Application to further ensure that the currently pending claims remain patentable over any previously reviewed references.

If the Examiner believes there are other issues that can be resolved by a telephone interview, or that there are any informalities that remain in the application that can be corrected by the Examiner's amendment, then a telephone call to the undersigned attorney at (678) 420-9428 is respectfully solicited.

With this Amendment and Response, Applicants enclose a Request for Continued Examination, a Petition for a Two-Month Extension of Time, and a credit card payment in the amount of \$1300, representing the \$810 large entity fee pursuant to 37 C.F.R. § 1.17(e) for a Requested for Continued Examination and the \$490 large entity fee pursuant to 37 C.F.R. § 1.17(a)(2) for a two-month Extension of Time. Applicants believe that no further

**ATTORNEY DOCKET NO. 04150.0003U2
APPLICATION NO. 10/561,734**

fees are due; however, Applicants authorize the Commissioner to charge to Deposit Account No. 14-0629 any additional fees that may be required, or to credit to the same account any overpayment of fees.

Respectfully submitted,

BALLARD SPAHR LLP

/MaryAnthonyMerchant Reg.No.39,771/
Mary Anthony Merchant, J.D., Ph.D.
Registration No. 39,771

BALLARD SPAHR LLP
Customer Number 23859
(678) 420-9300
(678) 420-9301 (fax)